

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 14, 2005 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #05036

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption off the premises at a Tobacco Shack store.

**CONCLUSION:** This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption off the premises.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 22, 23, and 24, Block 16, Havelock.

**LOCATION:** North 63<sup>rd</sup> Street and Havelock Avenue

**EXISTING ZONING:** B-3 Commercial

**EXISTING LAND USE:** Commercial

### **SURROUNDING LAND USE AND ZONING:**

North:	Parking lot	B-3
South:	Commercial	B-3
East:	Commercial	B-3
West:	Commercial	B-3

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates commercial land uses in this area.

**BACKGROUND:** This request is to allow the sale of alcohol for consumption off the premises at the existing Tobacco Shack at 6240 Havelock Avenue. The site plan shows an approximately 2,400 square foot building which is to be designated as the licensed premises.

### **ANALYSIS:**

#### **1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)**

**27.63.685:** Alcoholic beverages may be sold for consumption off the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, and I-3 zoning districts upon the approval of a special permit. A

special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be in accordance with Section 27.67.020 of the Lincoln Municipal Code.**

The parking requirement for the B-3 is one off-street parking space per 600 square feet of floor area. This site provides 15 off-street spaces, nine more than the four required by the Zoning Ordinance.

**(b) The sale of alcoholic beverages for consumption on the premises shall not be permitted without issuance of a permit under LMC Section 27.63.680 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption off the premises. The sale of alcoholic beverages for consumption on the premises is not a part of this proposal and is not being requested.

**(c) The licensed premises of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district.**

The licensed premises is located in the B-3 district. The nearest of any of the above is the R-6 district in excess of 450' away to the south of the licensed premises.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

The use is existing, and no new lighting is included as part of this request. Any new parking lot lighting is required to be reviewed at the time of building permits and must comply with all lighting regulations including the Parking Lot Lighting Standards of the City of Lincoln Design Standards.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not shown as part of this application.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of**

**any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are shown as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

There is no potential for access doors being located within 150' of a residential district. The nearest residential district is in excess of 450' away to the south of the site.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the subject premises is from both Havelock Avenue and South 63<sup>rd</sup> Street, neither of which are considered residential streets at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

## **CONDITIONS:**

### Site Specific:

1. This approval permits the sale of alcohol for consumption off the premises as shown on the attached site plan.

### General:

2. Before receiving building permits:
  - 2.1 The construction plans comply with the approved plans.

### Standard:

3. The following conditions are applicable to all requests:
  - 3.1 Before the sale of alcohol for consumption off the premises, all development and construction is to comply with the approved plans.
  - 3.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 3.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

### Prepared by:

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Brian Will, AICP, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner

SP#05036  
Tobacco Shack - Off sale  
6240 Havelock Avenue

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August 31, 2005

**OWNER:** Amelia Snavely  
6440 Knox Street  
Lincoln, NE 68505

**APPLICANT:** Gas'n Shop, Inc. dba Tobacco Shack  
PO Box 81463  
Lincoln, NE 68501  
(402) 475-1101

**CONTACT:** Angela Coffey  
12205 West Bluff Road  
Malcom, NE  
(402) 416-6112



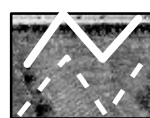
2005 aerial

# **Special Permit #05036** **N. 63rd & Havelock Ave**

## **Zoning:**

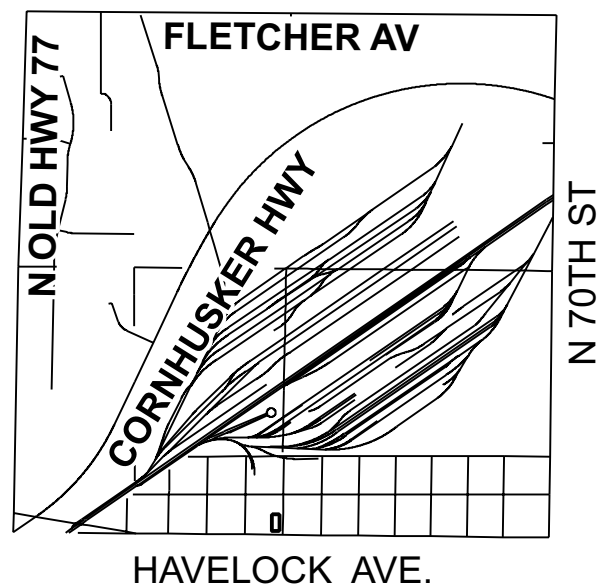
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
 Sec. 4 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



## PLOT PLAN

Job No: 05564

Lincoln, Lancaster County, Nebraska

Sheet: 1 of 1

# FINE LINE LAND SURVEYING

4320 West Raymond Road

Phone: (402) 429-5007

Raymond, Nebraska 68428

**Address: 6242 Havelock Avenue**

Legal Description: Lot 22, except a strip on the West side being 0.15 feet on the North and 0.35 feet on the South, and all of Lots 23 and 24, Block 16, Havelock Area = 12080

Square Feet +/-

**Zoning: B3**

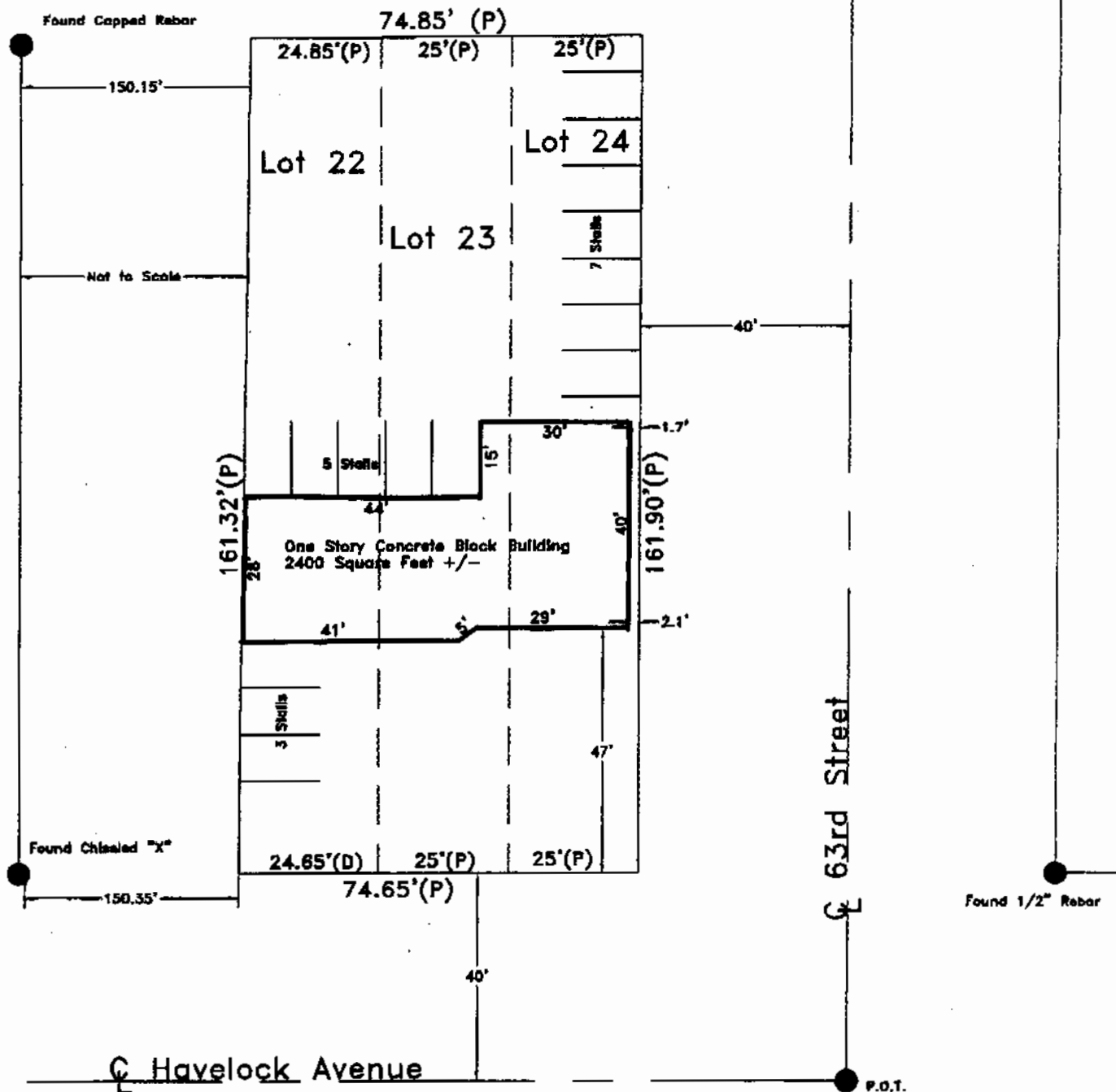
**Setbacks:** There are 0' setbacks on all sides.

**Parking:** Required: 3 spaces Actual: 15 spaces

### LEGEND

- ◆ = Section Corner  
 ■ = Corner Found  
 ○ = Property Corner Set - 5/8"x30" Rebar  
 (Except as otherwise noted)  
 (P) = Plotted Distance/Angle  
 (M) = Measured Distance/Angle  
 (D) = Deeded Distance/Angle  
 (R) = Recorded Distance/Angle  
 \* = Fence  
 N.T.S. = NOT TO SCALE

SCALE: 1" = 30'





## CONVENIENCE STORES

P.O. BOX 81463  
701 MARINA BAY PLACE  
LINCOLN, NEBRASKA 68501  
(402) 475-1101

July 12, 2005

Planning Director  
City of Lincoln  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

Dear Sir:

The purpose of this application is to acquire a liquor license for the property located at 6240 Havelock Avenue in Lincoln, Nebraska. Its current zoning requires a Special Use Permit, and the sale of alcoholic beverages for purposes of off-sale consumption is listed as a permitted use.

The business is currently in operation as the Gas 'N Shop, Inc. dba Tobacco Shack. It is not within 150' of a church or school and meets the requirements necessary for a liquor license.

Thank you for your consideration of this application.

Sincerely,

Dorothy Bockoven  
Attorney, Gas 'N Shop, Inc.